

WESTCHESTER COUNTY REVISION COMMISSION

MINUTES

MARCH 21, 2013

Members in Attendance: Richard Wishnie, Jeff Binder, Alfred Gatta, Herman Geist, Julie Killian, Derickson Lawrence, Florence McCue, David Menken, Jane Morgenstern, Bertrand Sellier, Matthew Thomas, Paul Windels

Absent Members: Raymond Belair, John Mattis, Steve Mayo, Anne McAndrews, Paul Meissner, Guy Parisi, Vincenza Restiano, Ronald Volino, Sam Zerka, Gary Zuckerman

County Staff in Attendance: Chris Crane, Stacey Dolgin-Kmetz, Melanie Montalto, Justin Adin

Commission Counsel: Lester Steinman

MINUTES

Chairman Wishnie called the meeting to order at 7:05 PM.

With a motion by Ms. McCue, seconded by Mr. Binder the minutes of January 24, 2013 and February 7, 2013 were approved with a vote of 12-0. The Commission discussed potential meeting dates and other details of the public forums and the retreat.

Mr. Binder reviewed the proposed changes to the County Charter in the Budget & Finance Focus Group. He stated that the group suggested changing the county's budget calendar year to match that of the State or just after that because the current process is too short. Mr. Steinman discussed other counties' timetables and the state law governing the process.

Mr. Binder stated that many people feel that the amount of time that Board of Legislators currently has to review, amend, and approve the budget is too short and much more time is needed. Mr. Thomas felt that the process only needed to be lengthened marginally, raising concerns about the role politics would have on an altered process. Mr. Steinman discussed breaching the Election Day threshold and its effects. Mr. Binder asked whether they should recognize that politics run year round in today's society, and not just around campaign season and Election Day.

The Commission discussed the possible scenarios and how specific budgetary issues could influence an election. Mr. Thomas stated that on the other hand, sometimes you have a situation where compromise is necessary to initiate a bargaining position. Mr. Binder reiterated that

politics play a role year round, although Mr. Thomas countered that without a preliminary budget out there, voters were receiving incomplete information. Mr. Geist brought up the suggestion of changing the fiscal year. Mr. Binder stated that he combined the first two points and that Mr. Geist's suggestion was tied to what he had been talking about

Mr. Binder asked if anyone who wasn't on the focus group had any comments. Mr. Gatta discussed the process of changing the fiscal year and its effects on each branch of government during the budget preparation process. He discussed how in his experience the process was almost year round with initial budget prep occurring as early in the summer. He agreed with Mr. Binder that politics would prevail, but succumbing to that would be succumbing to a lesser process of government here in Westchester, mentioning the current issues with Playland. Mr. Sellier asked how we could get all of the legislators more engaged throughout the entire process. Mr. Gatta stated that the first step they could take in improving the budget process would be changing the fiscal year.

Ms. Dolgin-Kmetz weighed in, stating that she agreed the budget process was a five or six month long process, beginning as early as May, but the problem was that the public isn't aware until the budget is actually released as it is done behind closed doors. Chairman Wishnie believed that maybe the process should be open. Mr. Windels stated that politics was tied to power, thus being tied to spending money. He believed that the budget should be a political process as politics were in theory the way that people controlled the government. He asked for a hypothetical scenario regarding changing the fiscal year.

Mr. Gatta gave an example with July as the beginning of the fiscal year; the budget process would start in January, being worked on internally. He continued that if the Board of Legislators had a finance committee, that preliminary rough draft would be presented to them, being open to the public with meetings being held regularly. By continually paring down the budget and finding out what the public really wants this would help facilitate compromise.

Mr. Geist asked if this change would include changing the terms of the elected officials, because a large turnover all at once in a legislature could create major issues. They discussed the present term limits only just being implemented were six terms or twelve years. Mr. Binder stated that wasn't something they considered, but Mr. Steinman stated that they wouldn't be heavily invested in the process early on. A discussion ensued on potential problems presented by a large turnover with the budget process such as the appointment of commissioners in such a short time.

Mr. Binder went onto the next point which was very granular in the overall scheme of things. He raised the question of if the Board of Legislators has access to departmental funding requests as specified by the Charter, as this year there were some issues in the Board obtaining information. The overall goal was to create a more open, transparent government, and clarifying the language in the Charter might help this, which Chairman Wishnie agreed with. Mr. Steinman discussed the information Chris Crane obtained on other counties budget, specifically mentioning a provision

in Ulster County's Charter that departmental requests submitted to the executive were declared public records.

Mr. Gatta stated that the majority of the time, it's the executive's budget and commissioners were making requests based on the needs of the department, not by the reality of the situation. Mr. Geist asked about the timeline of the College budget, which Ms. Dolgin-Kmetz replied was in September. Mr. Geist stressed the importance of considering the miscellaneous budget in the overall scheme of things. A discussion ensued on the budget format and possible changes and how they would affect the process.

Mr. Binder believed that the underlying issue was if the Board was considered an equal partner in the process or if this was an executive driven budget. Mr. Geist added that a lot of the time, politics is personality driven, thus affecting the flow of information. Mr. Lawrence believed that there was enough information before them that they could come to a decision on this. He asked Mr. Gatta about previous testimony from guests who seemed to support the executive driven budget. He reiterated Mr. Gatta's comments on the availability of information to the legislature. Mr. Gatta stated that he believed in the executive's absolute responsibility for the budget and discussed possible issues with the legislature being too focused on the departmental requests while not taking into account the reality of the fiscal situation.

The Commission continued discussing the role of legislative oversight for the budget process had compared to the powers of the executive, boiling down to the ongoing natural power struggle between the legislature and the executive branches of government. Mr. Binder emphasized this by pointing out Mr. Frank Mauro's comments about checks and balances in the minutes from the prior meeting.

Mr. Binder went onto the next issue in the focus group report was the pros and cons of a multiyear, or two year budget cycle. The commission asked how common this format was in New York, to which Mr. Steinman stated that Erie County has a financial forecast for two years. Mr. Gatta stated that it would help counties forecast and better predict where they would be two years from now; however, it wouldn't increase the fiscal health of the county.

Mr. Binder brought up the next issue, of whether the language of the Charter should be clarified as to the legislature's involvement in the Capital Projects Process and discussed the current language in the Charter. The Commission analyzed the semantics of the language and discussed whether or not the legislative branch should be considered a County Department.

Ms. Dolgin-Kmetz brought up recent litigation and the subsequent court ruling that the Board of Legislators was in fact, not a department, and should be considered a separate entity. Mr. Adin stated that there were two issues regarding that ruling. First, the judge wrote that decision but dismissed the lawsuit, and that the petitioners had filed a notice of appeal, leaving the outcome in limbo for the time being. Mr. Binder clarified by saying "if the board is considered a department, the position was taken that they would have to adhere to a [very] specific timeline for getting

something into the capital submissions” Ms. Dolgin-Kmetz stated that the problem with the legislature being labeled a department was that it would allow the County Executive to say no to submissions right off the bat.

Mr. Thomas asked if it made sense for projects to be vetted before they get put into the capital budget. Chairman Wishnie noted that historically, there was a 5 year capital plan that laid out the processes for capital submissions, discussing additions and deletions by the legislature. With the current administrations break from the tradition, the issue has created some additional tension with the two branches now in court.

Mr. Geist stated that when he was in office, he wanted a strong executive that he could approach for help pushing certain things through. That was possible because of the good working relationship between the two branches of government. Mr. Steinman emphasized that despite the ongoing litigation, a court decision wouldn’t fix the procedural issues and that the commission should not rely on a Court ruling to use as a guide generally, but also in reference to the ongoing litigation previously discussed. Mr. Geist stated that if clarification to the capital projects process could be clarified with certain amendments to the charter it would be worthwhile and help prevent future issues.

Mr. Binder went onto the next item regarding the installation of a more formalized monitoring process that would require quarterly reports. Mr. Gatta believed that there was already a requirement in place for quarterly reports. Mr. Crane stated that he believes the budget act each year will require them but it is not an actual charter requirement.

Matt Thomas discussed item number seven with regard to pension borrowing. Mr. Sellier stated that borrowing to pay for operating costs is a bad practice and we should make it as hard as possible. The Commission discussed how dramatically the pension costs have increased for municipalities and how this is a problem that is not going to go away for a long time.

Ms. McCue stated that she did not want future government to be obligated whether or not to borrow or not borrow depending on the financial health of the county, to prevent tying a future legislature’s hands, noting that it should be their decision. Mr. Sellier stated that a more moderate approach would simply be to notify the public that the current government is borrowing for future obligations. A discussion ensued on the benefits associated with full disclosure versus what was currently in place.

The final item Mr. Binder addressed was about additions and deletions to the budget and whether the process for evaluating them was rational or should be altered in some way. Mr. Lawrence asked Mr. Crane to help the commission to help identify other counties who sought to tackle this issue and how they’re handling this. Chairman Wishnie stated that the commission would have the Professor’s staff research this to help drill down a better answer.

Mr. Binder presented a cartoon obtained by Legislator Marcotte detailing the current budget process in a simplified manner that implied a lack of transparency with the current process along party lines. Chairman Wishnie stated that each caucus prioritized their adds/deletes then and followed by a vote at a regular board meeting. Mr. Thomas stated that unless you were in the majority caucus you went into the meeting for all purposes blind and had no ability to discuss them beforehand and was suggesting a longer period between the additions and deletions and when they were voted on. A discussion ensued on the importance and functions of the additions and deletions. Mr. Adin stated that deletions could be put forth at any time, via a memorandum of deletions and or a vote on the floor. A discussion on what transpired during the final hours before a vote was led by Chairman Wishnie.

Chairman Wishnie asked that we narrow down the date for the public hearing. The Commission agreed on April 3, 2013 at 7:00 pm. The Commission agreed that the retreat will be on April 27, 2013 from 8:00 am to 5:00 pm.

Chairman Wishnie stated that the next meeting will be on April 11th, 2013.

With a motion by Mr. Thomas seconded by Mr. Binder the Charter Revision Commission adjourned at 8:48 pm.